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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,537	08/05/2005	Wolfgang Rohde	LU 6034 (US)	9275

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Basell USA Inc.
Delaware Corporate Center II
2 Righter Parkway, Suite #300
Wilmington, DE 19803

EXAMINER

EWALD, MARIA VERONICA

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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08/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,537	Applicant(s) ROHDE ET AL.	
	Examiner MARIA VERONICA D. EWALD	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008 and 04 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,7,8,10-14,18,19,21-29 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,7,8,11-14,18,19,21-29 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2005 and 09 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/14/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

13. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 4, 2008 has been entered.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

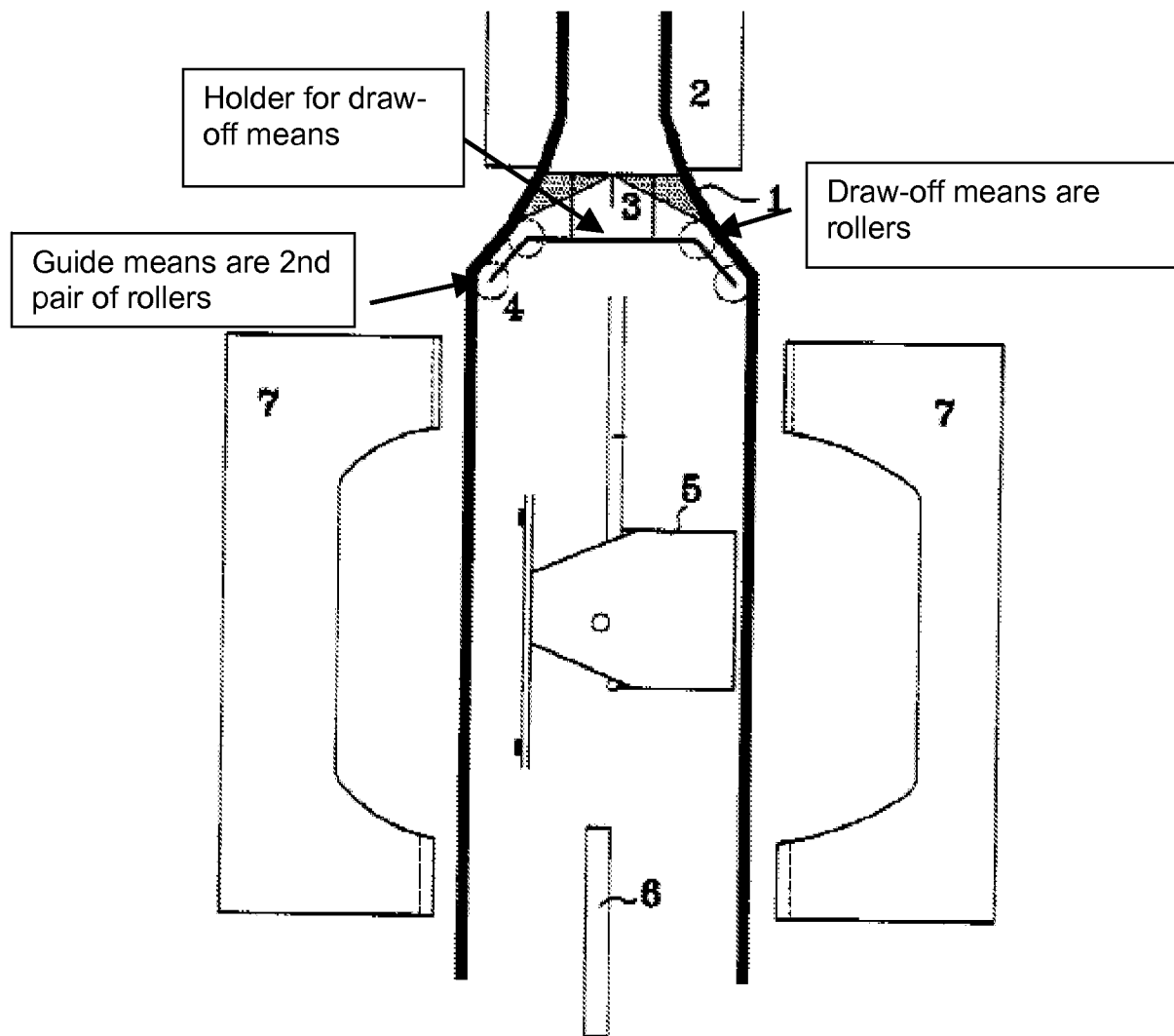
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 7 – 8, 11 – 12, 14, 18, 21 – 22, 25 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaftingen, et al. (U.S. 2001/0015513 A1) in view of Kagitani (JP 06218792, see translation) and further in view of Zuckerberg, et al. (U.S. 5,047,196). Schaftingen, et al. teach a device for partitioning an extruded or coextruded plastic parison to give at least one semifinished open-surface product comprising at least one means of partitioning the plastic parison (item 3 – figure 1) and at least one draw-off means for pulling the plastic parison over the means of

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partitioning thereby compensating for a resistance of the means of partitioning (item 4 – figure 1), wherein the means of partitioning the plastic parison is a body of triangular cross-section (item 3 – figure 1; paragraph 0045); wherein the device further comprises a holder for at least one of the means of partitioning the plastic parison and the draw-off means (figure 1); wherein the holder is a spacer for the semifinished open-surface products; wherein the device further comprises means of guiding the semifinished open-surface products for controlling the distance between the semifinished products (item 4 – figure 1; paragraph 0046); wherein the means of guiding comprises guide rollers (item 4 – figure 1; paragraph 0046); wherein the draw-off means comprises at least two driven rolls (figure 1); wherein the body is metallic (paragraph 0045); wherein the guide rollers are driven (figure 1; paragraph 0046). See figure below.

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Schaftingen, et al., however, do not teach that the means of partitioning is arranged transversely to the extrusion direction or wherein the guide rollers can be moved transversely to an extrusion direction, wherein the draw-off means is heatable or coolable, or wherein the holder and guide rollers are heatable or coolable.

Configuring the means of partitioning and the guide rollers transverse to the extrusion direction is known to one of ordinary skill in the art. Schaftingen, et al. already

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teach that the cutting or partitioning means is disposed below the extrusion head at the exit of the circular die (paragraph 0045).

For example, Kagitani teaches an apparatus for partitioning a parison, wherein there is cutter disposed beneath the extruded parison. The cutter is comprised of one cutter having a cutting edge (item 36 – figure 1) which contacts the parison, or may be comprised of two cutter surfaces (paragraph 0007 of translation). A guide roll (item 42 – figure 1) is disposed to draw-off the split products away from the cutter and downward. The guide roll, itself may be connected to a motor, which in turn, is connected to a controller. Such a combination, allows more precise control of the drawing-off of the products and allows the rate of “hanging” of the sheet to be controlled (paragraph 0007 of translation). Furthermore, the sheet is drawn vertically, or transverse to the extrusion direction. Thus, configuring the apparatus of Schaftingen, et al. like that of Kagitani would be obvious and allows continuous drawing of the sheet in a vertical direction to compensate for any sagging. Kagitani, like Schaftingen, et al. however, does not teach that the draw-off means, holder or guide rollers are heatable or coolable. This, again however, is an obvious modification, since the extruded parison itself is extruded in a heated state and is typically comprised of a resin or polymeric material, which is subsequently solidified in its cooled state. Controlling the heating or cooling of the draw-off means ensures that the extruded and semifinished product is not prematurely solidified or heated above a specified temperature, which may produce a warped or deformed product.

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For example, in a method to draw-off extruded adhesive tapes, Zuckerberg, et al. teach the use of cooled draw-off rollers (items 72, 74, and 76 – figure 5; column 5, lines 40 – 50). The draw-off rollers cools the extruded sheet as it passes through the rollers, setting the sheets in their final state.

Thus, because Schaftingen, et al., Kagitani and Zuckerberg, et al. teach the use of extruders to produce products, whether sheets or parisons, and it is known to one of ordinary skill in the art to control the heating and/or cooling of the extruded product, wherein the product is partitioned transverse to the extrusion direction, to prohibit any warping or deformation of the product, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the apparatus of Schaftingen, et al. such that the means of partitioning is disposed transverse to the extrusion direction, as taught by Kagitani such that the draw-off means are cooled or heated, as suggested by Zuckerberg, et al. for the dual purposes of preventing any warping or deformation of the product and promoting cooling of the product, thereby setting it in its final state as taught by Zuckerberg, et al.

Claims 13, 23 – 24 and 26 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaftingen, et al. in view of Kagitani and further in view of Zuckerberg, et al.

Schaftingen, et al. teach a process comprising partitioning an extruded or coextruded plastic parison to give at least one semifinished open-surface product, with a device comprising at least one means of partitioning the plastic parison (item 3 –

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figure 1) and at least one draw-off means for pulling the plastic parison over the means of partitioning thereby compensating for a resistance of the means of partitioning (item 4 – figure 1), wherein the means of partitioning the plastic parison is a body of triangular cross-section (item 3 – figure 1); wherein the draw-off means comprises at least two driven rolls (figure 1); wherein the device further comprises a holder for at least one of the means of partitioning the plastic parison and the draw-off means (figure 1); wherein the device further comprises means of guiding the semifinished open-surface products for controlling the distance between the semifinished products (item 4 – figure 1; paragraph 0046); wherein the means of guiding comprises guide rollers (item 4 – figure 1; paragraph 0046); wherein the guide rollers are driven (figure 1; paragraph 0046). See figure 1 on previous page(s).

Schaftingen, et al., however, do not teach that the means of partitioning is arranged transversely to the extrusion direction or wherein the guide rollers can be moved transversely to an extrusion direction, wherein the draw-off means is heatable or coolable, or wherein the holder and guide rollers are heatable or coolable.

Configuring the means of partitioning and the guide rollers transverse to the extrusion direction is known to one of ordinary skill in the art. Schaftingen, et al. already teach that the cutting or partitioning means is disposed below the extrusion head at the exit of the circular die (paragraph 0045).

For example, Kagitani teaches an apparatus for partitioning a parison, wherein there is cutter disposed beneath the extruded parison. The cutter is comprised of one cutter having a cutting edge (item 36 – figure 1) which contacts the parison, or may be

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comprised of two cutter surfaces (paragraph 0007 of translation). A guide roll (item 42 – figure 1) is disposed to draw-off the split products away from the cutter and downward. The guide roll, itself may be connected to a motor, which in turn, is connected to a controller. Such a combination allows more precise control of the drawing-off of the products and allows the rate of “hanging” of the sheet to be controlled (paragraph 0007 of translation). Furthermore, the sheet is drawn vertically, or transverse to the extrusion direction. Thus, configuring the apparatus of Schaftingen, et al. like that of Kagitani would be obvious and allows continuous drawing of the sheet in a vertical direction to compensate for any sagging. Kagitani, like Schaftingen, et al. however, does not teach that the draw-off means, holder or guide rollers are heatable or coolable. This, again however, is an obvious modification, since the extruded parison itself is extruded in a heated state and is typically comprised of a resin or polymeric material, which is subsequently solidified in its cooled state. Controlling the heating or cooling of the draw-off means ensures that the extruded and semifinished product is not prematurely solidified or heated above a specified temperature, which may produce a warped or deformed product.

For example, in a method to draw-off extruded adhesive tapes, Zuckerberg, et al. teach the use of cooled draw-off rollers (items 72, 74, and 76 – figure 5; column 5, lines 40 – 50). The draw-off rollers cools the extruded sheet as it passes through the rollers, setting the sheets in their final state.

Thus, because Schaftingen, et al., Kagitani and Zuckerberg, et al. teach the use of extruders to produce products, whether sheets or parisons, and it is known to one of

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ordinary skill in the art to control the heating and/or cooling of the extruded product, wherein the product is partitioned transverse to the extrusion direction, to prohibit any warping or deformation of the product, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the apparatus of Schaftingen, et al. such that the means of partitioning is disposed transverse to the extrusion direction, as taught by Kagitani such that the draw-off means are cooled or heated, as suggested by Zuckerberg, et al. for the dual purposes of preventing any warping or deformation of the product and promoting cooling of the product, thereby setting it in its final state as taught by Zuckerberg, et al.

Claims 2 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaftingen, et al. in view of Kagitani, in view of Zuckerberg, et al. and further in view of Cancio, et al. (U.S. 4,626,574). Schaftingen, et al., Kagitani and Zuckerberg, et al. teach the characteristics previously described but do not teach that the draw-off means is (i) smooth, profiled, and grooved, (ii) a coated surface or (iii) a smooth, profiled, grooved and coated surface and that the body has a coating of plastic. It is already noted that the blades of Schaftingen, et al. are steel.

In a method to extrude and draw-off thermoplastic films, Cancio, et al. teach the use of coated rollers which allows for better film release characteristics, ensuring that the films do not adhere to the roller surface (column 2, lines 60 – 63). The coating is typically polytetrafluoroethylene which is a known anti-sticking agent.

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Thus, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to configure the apparatus of Schaftingen, et al. such that the means of partitioning is transverse to the extrusion direction, as taught by Kagitani, configured with heatable or coolable rollers and a holder, as taught by Zuckerberg, et al., further configured with the draw-off means and partitioning means body being coated for the purpose of preventing adherence of the sheet onto the roller or body as taught by Cancio, et al.

Claims 32 – 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaftingen, et al. in view of Kagitani, in view of Zuckerberg, et al. and further in view of Hahn. Schaftingen, et al., Kagitani and Zuckerberg, et al. teach the characteristics previously described but do not teach that the means for partitioning is heated or cooled. This however, is an obvious modification and known to one of ordinary skill in the art.

For example, Hahn teaches a device for partitioning a plastic parison to give at least one semifinished open-surface product (item 38 – figure 1; column 3, lines 10 – 25), using at least one means of portioning the plastic parison (column 3, lines 15 – 20), wherein the cutting units are metallic (column 3, lines 14 – 15). The means of partitioning the plastic parison is a heated wire, which produces a clean cut in a single step (column 3, lines 15 – 25).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to configure the apparatus of Schaftingen, et al. such that the

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means of partitioning is transverse to the extrusion direction, as taught by Kagitani, configured with heatable or coolable rollers and a holder, as taught by Zuckerberg, et al., further configured with the heated cutter of Hahn for the purpose of cutting the parison cleanly in one single step, thereby resulting in a product of adequate quality.

The Examiner notes that Applicant has claimed that there is a “draw-off means for pulling the plastic parison”, a “means of partitioning the plastic parison” and a “means of guiding the semifinished open-surface products.” Though the limitations have been claimed in means plus function form, the Examiner has determined that Applicant has not invoked 35 U.S.C. 112, 6th paragraph because there is structure imparted to the means in each case. The draw-off means has been claimed has a driven roll, the means of partitioning is a body of triangular cross section and the means of guiding are guide rollers.

Allowable Subject Matter

15. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As stated in the previous office action, the closest prior art references fail to teach or suggest that the draw-off means has been set into recesses on the means of partitioning the plastic parison.

Information Disclosure Statement

16. The prior art made of record (dated 4/14/08), though not relied upon, is deemed pertinent to the state of the art and thus, has been considered.

Response to Arguments

17. Applicant's arguments with respect to claims 1, 3 – 4, 7 – 8, 11 – 14, 21 – 23 and 26 – 29 have been considered but are moot in view of the new ground(s) of rejection. Applicant argued and amended claim(s) 1 and 13 to incorporate previously-indicated allowable subject matter. However, upon an updated search and review of the prior art, the Examiner has formulated a new grounds of rejection based on the reference of Schaftingen, et al., in view of Kagitani and Zuckerberg, et al. Schaftingen, et al. do teach a means of partitioning a parison wherein the means is a body of triangular cross-section. As shown in figure 1, the steel blades of Schaftingen, et al. are triangular in cross-section and disposed 180° from each other. Thus, claim(s) 1 and 13 and its dependent claims have been rejected.

However, the Examiner still indicates the subject matter of claim 10 allowable because prior art fails to teach or suggest that the draw-off means is disposed into recesses on the partitioning means.

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Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIA VERONICA D. EWALD whose telephone number is (571)272-8519. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVE

/Maria Veronica D Ewald/
Examiner, Art Unit 1791